

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2742 of 1992

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

NIRMALKUMAR GUNVANTRAI DOSHI

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioner
MR PREMAL JOSHI AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR HS MUNSHAW for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/09/2000

ORAL JUDGEMENT

The petitioner challenges the order dated 30th December, 1991 made by the Deputy Collector, Amreli in respect of transfer of a piece of agricultural land sold

to the petitioner in the year 1975 being violative of Section 54 of the Saurashtra Gharkhed Tenancy Settlement & Agricultural Lands Ordinance, 1949. It appears that a piece of land bearing Survey No. 518, admeasuring 6 Acres 3 Gunthas situated at village Amrapur was of the ownership of the respondent no. 3 herein - an agriculturist. The same was sold to the petitioner herein. A mutation entry no. 1328 to that effect was made on 10th May, 1975 and was certified on 17th July, 1975. However, the Deputy Collector was of the opinion that the said transfer being one in favour of a non-agriculturist, was violative of Section 54 of the above referred Ordinance and by order dated 29th January, 1989, set-aside the said transfer. Feeling aggrieved, the petitioner preferred appeal to the District Collector. The appeal was partially allowed and the matter was remanded. After remand, once again, the Deputy Collector held that the transfer in question being in favour of a non-agriculturist, was hit by Section 54 of the Ordinance and accordingly, disapproved the said transfer and further directed the petitioner to hand over the possession to the respondent no. 3 within a period of three months. Feeling aggrieved, the petitioner preferred appeal before the Collector under Section 203 of the Bombay Land Revenue Code, 1879. The said appeal was dismissed on 17th March, 1992. Therefore, the petition.

The petitioner had categorically raised the issue as regards the limitation i.e., though the transfer in question was made in the year 1975 and the mutation entry was also certified on 17th July, 1975, the proceedings in question were initiated as late as in the year 1988-89 i.e., nearly 15 years after the date of the transfer. No explanation has come-forth why the proceedings were initiated after more than 14 years. The contention raised by the petitioner has not been given due attention. I am of the view that the petitioner should succeed on the issue of delay alone. It is true that no period of limitation has been prescribed for initiating the proceedings of the kind but the same are required to be initiated within a reasonable time. The period of nearly 15 years, in absence of any explanation therefor, can by no stretch of imagination, be said to be a reasonable period. The petition is allowed. The impugned orders dated 30th December, 1991 and 17th March, 1992 [Annexures-B & C respectively to the petition] are quashed and set-aside. Rule is made absolute with costs.

Prakash*